



PATENT

Attorney Docket No. 500159

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Mary Swaab

Application No.: 09/363,129

Filed: July 29, 1999

Art Unit: 1732

Examiner: James Mackey

For: APPARATUS AND METHOD FOR
BLENDING AND FABRICATING
PERSONALIZED LIPSTICK

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TERMINAL DISCLAIMER UNDER 37 CFR § 1.321(b)

TC 1700

Assignee, Graf Enterprises, LLC, is the owner of 100 percent interest in the above-identified application (hereinafter "the present application").

Pursuant to 37 CFR § 3.73(b), the assignment of the present application from the inventors, or chain of title from the inventors, to the Assignee was recorded in the Patent and Trademark Office at Reel 011675, Frame 0428, on April 9, 2001.

Also, pursuant to 37 CFR § 3.73(b), the undersigned has reviewed all the evidentiary documents accompanying or referred to in this Terminal Disclaimer and, to the best of the undersigned's knowledge and belief, certifies that title is in the Assignee.

Assignee, through its attorneys, hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the present application that would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. § 154 to § 156 and § 173 of U.S. Patent No. 5,971,351 (hereinafter "the prior patent"), as shortened by any terminal disclaimer filed prior to the grant of the prior patent. Assignee, through its attorneys,

further agrees that any patent granted on the present application shall be enforceable only for

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and during such period that its legal title is the same as the legal title to the prior patent, this agreement to run with any patent granted on the present application and to be binding upon the grantee, its successors, and assigns.

In making the above disclaimer, Assignee does not disclaim the terminal part of any patent granted on the present application that would extend to the expiration date of the full statutory term of the prior patent as defined in 35 U.S.C. § 154 to § 156 and § 173 in the event the prior patent terminates prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer filed prior to the grant of the patent. Examples of such non-applicable termination of the prior patent are as follows: (1) prior patent expires for failure to pay a maintenance fee, (2) prior patent is held unenforceable, (3) prior patent is found invalid by a court of competent jurisdiction, (4) prior patent is statutorily disclaimed in whole or terminally disclaimed under 37 CFR § 1.321, (5) prior patent has all claims canceled by a reexamination certificate or reissuance, and (6) prior patent is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

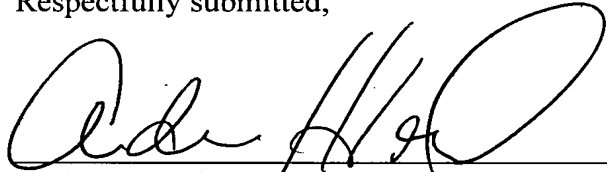
In making this disclaimer, Assignee reserves the right to extend the term of any patent granted on the present application for a period of delay, in the event the delay is defined by statute and/or regulation as allowing, or providing for, an extension of term. This right is reserved in the event the prior patent terminates, or does not terminate, prior to the expiration of its full statutory term. Examples of such a delay include regulatory delay, and delay due to appellate review.

The undersigned is empowered to act on behalf of the Assignee.

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The fee of \$110.00 required by 37 CFR § 1.20(d) is attached.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Andrew J. Heinisch', is written over a horizontal line.

Andrew J. Heinisch, Registration No. 43666
One of the Attorneys for Assignee
LEYDIG, VOIT & MAYER, LTD.
6815 Weaver Road, Suite 300
Rockford, Illinois 6114-8018
(815) 963-7661 (telephone)
(815) 963-7664 (facsimile)

Date: November 20, 2001

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CERTIFICATE OF MAILING

I hereby certify that this TERMINAL DISCLAIMER (along with any documents referred to as attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231.

Date: 11-20-01

